

REMARKS

Claims 10-37 remain in this application. No claims have been cancelled. Claims 30-32 have been amended not in view of overcoming any prior art of which the Applicants are aware but to change the format of the claims. Claims 33-37 have been added. The amended claims and the added claims are supported by the specification. No new matter has been added. The Applicants respectfully requests reconsideration of this application in view of the above amendments and the following remarks.

35 U.S.C. §102(e) Rejection – Fischer

The Examiner has rejected claims 10 and 30 under 35 U.S.C. §103(a) as being anticipated by U.S. Patent No. 6,470,370 issued to Fischer et al. (hereinafter referred to as "Fischer"). The Applicants respectfully submit that the present claims are not anticipated by Fischer.

Claim 10 recites at least, "*a partial-width packed data instruction*" and "*a partial-width execution unit coupled with the decoder to execute the operation on the subset of corresponding pairs of data elements*". Fischer does not teach or suggest either: (1) a partial-width packed data instruction, or (2) a partial-width execution unit to execute the operation on the subset of corresponding pairs of data elements.

Firstly, Applicants submit that Fischer does not teach or suggest a partial-width packed data instruction. In the Office Action mailed April 10, 2003, the Examiner cites the packed data instruction set 145 and packed data instructions 150, 155, 160, 165, 170, 175, 180, and 185 as allegedly being partial width packed data instructions. The Applicants respectfully disagree. There is no teaching or suggestion that these instructions are partial-width instructions.

Secondly, Applicants submit that Fischer does not teach or suggest a partial-width execution unit to execute the operation on the subset of corresponding pairs of data elements. In the Office Action mailed April 10, 2003, the Examiner cites the execution unit 142 shown in Figure 1 as allegedly being a partial-width execution unit and cites Fischer column 7, line 8 through column 8, line 57. The Applicants have reviewed this section and have found absolutely no teaching or suggestion that the execution unit 142 is a partial-width execution unit.

Anticipation under 35 U.S.C. Section 102 requires every element of the claimed invention be identically shown in a single prior art reference. The Federal Circuit has indicated that the standard for measuring lack of novelty by anticipation is strict identity. *“For a prior art reference to anticipate in terms of 35 U.S.C. Section 102, every element of the claimed invention must be identically shown in a single reference.”* In Re Bond, 910 F.2d 831, 15 USPQ.2d 1566 (Fed. Cir. 1990).

Accordingly, the Applicants respectfully submit that claim 10 is not anticipated by Fischer, and is believed to be allowable. Claims 11-19 depend from claim 10 and are believed to be allowable therefor, as well as for the recitations independently set forth therein.

Claim 30 recites at least, *“execution means for executing the instruction”*. Applicants request reconsideration of this rejection because Fischer does not teach or suggest the structure described in the application corresponding to the *“execution means for executing the instruction”*.

Specifically, Fischer does not teach or suggest a partial width execution unit configured with logic to execute operations specified by a first set of instructions that each specify operations to be performed on all of the data elements stored in one or more specified registers, and a second set of instructions that specify operations to be performed on only a subset of the data elements stored in one or more specified registers. Such structure is shown and described in the specification as an execution means for executing instructions.

Accordingly, claim 30 is believed to be allowable. **Claims 31-32 depend from claim 30** and are believed to be allowable therefore, as well as for the recitations independently set forth therein.

35 U.S.C. §103(a) Rejection - Fischer in view of Peleg

The Examiner has rejected claims 11-29, 31 and 32 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,470,370 issued to Fischer et al. (hereinafter referred to as "Fischer") in view of U.S. Patent No. 6,385,634 issued to Peleg et al. (hereinafter "Peleg"). The Applicants respectfully submit that Fischer and Peleg Applicant may not be used as references under §102(e)/§103.

Fischer was granted on an application for patent filed by another in the United States on January 16, 2001 as a continuation of Application Serial No. 08/905,506 filed on July 31, 1997. This priority date of Fischer precedes the March 31, 1998 priority date of the present application. Based on these dates the Examiner appears to have cited Fischer as a reference under §102(e)/§103(a). Peleg was granted on an application for patent filed by another in the United States on August 31, 1995. This date precedes the March 31, 1998 priority date of the present application. Based on these dates the Examiner appears to have cited Peleg as a reference under §102(e)/§103(a).

In accordance with 35 U.S.C. §103(c), "*subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.*" This subsection applies to all applications, including continuing applications filed under 37 CFR 1.53(b), continued prosecution applications filed under 1.53(d), and reissues, filed on or after November 29, 1999. M.P.E.P. §706.02(l)(1).

Furthermore, as stated in M.P.E.P. §706.02(l)(1) the "*mere filing of a continuing application on or after November 29, 1999, with the required evidence of common ownership, will serve to exclude commonly owned 35 U.S.C. 102(e) prior art that was applied, or could have been applied, in a rejection under 35 U.S.C. 103 in the parent application.*"

In support of the required common ownership under 35 U.S.C. 103(c), it is hereby averred that the current application (Application Serial No. 09/852,217), and Fischer (U.S. Patent No. 6,470,370) and Peleg (U.S. Patent No. 6,385,634) were, at the time the invention was made, owned by, or subject to an obligation of assignment to, the same organization. The Applicants submit that such statement alone is sufficient evidence to establish common ownership of, or an obligation for assignment to, the same organization. See M.P.E.P. 706.02(l)(2)(II). The presently filed continuation application filed under 37 CFR 1.53(b), therefore, qualifies as an application that will serve to exclude commonly owned 35 USC 102(e) prior art.

Accordingly the Applicants respectfully submit that Fischer and Peleg have been removed as valid references under 35 U.S.C. 103(a) against the claims of the current application. Accordingly, claims 11-29, 31 and 32 are believed to be allowable.

New Claims Believed Allowable

New **claim 33** is believed to be allowable for reasons similar to those discussed above for claim 10. **Claims 34-37** depend from claim 33 and are believed to be allowable therefor, as well as for the recitations independently set forth therein.

Conclusion

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record and are in condition for allowance. Applicants respectfully request that the rejections be withdrawn and the claims be allowed at the earliest possible date.

Request For Telephone Interview

The Examiner is invited to call Brent E. Vecchia at (303) 740-1980 if there remains any issue with allowance of the case.

Request For An Extension Of Time

The Applicants respectfully petitions for an extension of time to respond to the outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary. Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37 C.F.R. § 1.17 for such an extension.

Charge Our Deposit Account

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,
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Date: June 10, 2003

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